IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH,

AT HYDERABAD

HON'BLE SRI JUSTICE V.V.S. RAO

W.P. No. 23548 OF 2005

Date: 21.11.2005

BETWEEN:

M/s. Uttam Nagar Colony Welfare Association

(Regd. No.322 of 1974), Uttam Nagar, Malkajgiri,

Ranga Reddy District, rep. by its General Secretary

A. Parameswar Rao.

.... PETITIONER

And

1. Malkajgiri Municipality, rep. by its Commissioner, Malkajgiri, Ranga Reddy District, and others.

.... RESPONDENTS

HONOURABLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No. 23548 OF 2005

ORDER:

Uttam Nagar Colony Welfare Association, Malkajgiri (hereinafter called 'the Association') filed the present writ petition seeking a declaration that the action of the respondents in constructing auditorium in 100' wide road of Uttam Nagar Colony, as illegal and arbitrary. The Malkajgiri Municipality, the first respondent herein, issued tender notification inviting tenders from interested consultants for preparation of detailed designs and estimates for construction of auditorium in Uttam Nagar Colony at a cost of about Rs.100 lakhs. The said notification is the cause of action in this writ petition.

The Joint Secretary of the Association filed affidavit on behalf of the Association asserting that the layout in S.No.174/1 was approved long back showing 100' wide road on Southern side of Uttam Nagar, which is being used by the residents, on which first respondent is illegally constructing an auditorium. A counter affidavit is filed on behalf of the respondents 1 and 2. It is stated that the property on which an auditorium is proposed, is not part of the

layout. It is further stated that the Public Engineering Department formed 100' wide road from Moula-Ali to Cantonment area, i.e., the present Uttam nagar Colony, and the Public Health Engineering Department subsequently handed over the water supply pipeline to the Municipality in the year 1988. The left over land admeasuring 1137.34 sq. yards on the Western side of the 66' wide Jyothinagar, Uttam Nagar – Safilguda road became vacant land. The Municipal Council by resolution dated 17.9.2000 resolved to convert the said portion for construction of Community Hall, and accordingly proposals were submitted to the Government. The proposal was recommended by the Hyderabad Urban Development Authority after inviting objections for change of land use. Having received no objections, the Government issued G.O.Ms.No.239, dated 1.5.2003 deleting the portion of the land as 100' wide road, and converting the same as partly residential use for construction of Community Hall by the first respondent. The notice issued under Section 12 (2) of the A.P. Urban Areas (Development) Act, 1975 inviting objections for draft variation, and the copy of G.O.Ms.No.239 dated 1.5.2003 (notification) varying the use of land in S.No.174/1, are enclosed to the counter affidavit. These documents support the contention of the first respondent Municipality.

The petitioner has not filed any reply affidavit denying the counter averments and therefore, the allegation made by the petitioner that the construction of auditorium is being taken up on 100' wide road on Southern side of the Uttam Nagar Colony is not correct. The Writ Petition is therefore misconceived.

The Writ Petition, for the above reasons, is accordingly dismissed at the admission stage.

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(**V.V.S. RAO, J.)**

21st November, 2005

Js.